

REMARKS

In the Office Action dated June 16, 2011, the Examiner states that this application contains the following groups of inventions that are not so linked as to form a single general inventive concept under PCT Rule 13.1.

- I. Claims 1-13 and 21-29, drawn to an array of chemically reactive sites.
- II. Claims 14-20, drawn to a method of making an array of chemically reactive sites

In order to be fully responsive to the Examiner's requirement for restriction, Applicants provisionally elect, with traverse, to prosecute the subject matter of Group I, Claims 1-13 and 21-29, drawn to an array of chemically reactive sites. Nevertheless, Applicants reserve the right to file one or more divisional applications directed to the non-elected subject matter in this application. However, pursuant to 37 C.F.R. §§1.111 and 1.143, Applicants hereby traverse the Examiner's requirement for restriction and request reconsideration thereof in view of the following remarks.

Applicants respectfully submit that a requirement for restriction presupposes an analysis of the subject application in light of the rules governing this practice, i.e., 37 C.F.R. §1.499 and PCT Rules 13.1 and 13.2. PCT Rule 13.1, first sentence, states: "The international application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ('requirement of unity of invention')." (Emphasis added.) PCT Rule 13.2 states: "The expression 'technical features' shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art." (Emphasis added.)

The Examiner alleges that Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features. The Examiner alleges that Groups I and II are distinct from each other because the cited art allegedly discloses the features common to Groups I and II, i.e. a substrate and a plurality of three-dimensional microstructures formed on a substrate, with each three-dimensional microstructure being made with polymer material.

Applicants respectfully disagree with the Examiner's rationale for restricting the claims and submit that the Groups I and II are structurally and functionally linked and thus, possess unity of invention. Further, MPEP §1850 states that “the benefit of any doubt being given to the applicant” when an Examiner is considering whether or not an invention has unity. Contrary to the statements found in the Official action, there is unity of invention between Groups I and II.

Further, the Office Action alleges that a substrate and a plurality of three-dimensional microstructures formed on a substrate, with each three-dimensional microstructure being made with polymer material is the special technical feature linking the claims disclosed in U.S. Patent No. 6,548,020 to Okamoto et al. (hereinafter, “Okamoto”). But, Okamoto does not disclose a plurality of microstructures having a plurality of reactive sites formed on the surface of the microstructure, as is recited in Claims 1 and 14 of the present application. Okamoto discloses a reaction site array having a plurality of reaction sites, each reaction site being composed of a first region having a first affinity and a second region having a second affinity, the second region being raised from the first region. See column 3 lines 27-35 of Okamoto.

The reaction sites of Okamoto require both the first region, (4 of FIG. 1B of Okamoto) and the second region projecting pattern (2 of FIG. 1b of Okamoto). Thus, the reaction sites of Okamoto are not on a plurality of microstructures, they are located over the

region formed by the combination of the projecting patterns and the base material. Hence, Okamoto does not disclose a special technical feature of the claimed array and method of Groups I and II.

Since Okamoto does not disclose a special technical feature of the claimed array and method of Groups I and II, there is unity of invention between Groups I and II.

Applicants respectfully suggest that it would be proper to withdraw the restriction requirement so that Group I and Group II may be examined together, in view of the arguments raised herein. Applicants respectfully submit that unity of invention has been demonstrated between the arrays of chemically reactive sites of Group I (Claims 1-13 and 21-29) and the methods of making the array of chemically reactive sites Group II (Claims 14-20). Accordingly, the Applicants earnestly request that Claims 1-29 be examined together and in their entirety.

Wherefore, consideration and allowance of the claims of the present application are respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Peter I. Bernstein', with a long horizontal flourish extending to the right.

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